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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,236	02/01/2002	William Brent Wilson	P21748	8492

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EXAMINER	
AN, SHAWN S	
ART UNIT	**PAPER NUMBER**
2621	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/01/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/01/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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pto@gbpatent.com

Office Action Summary	Application No.	Applicant(s)	
	10/060,236	WILSON, WILLIAM BRENT	
	Examiner	Art Unit	
	Shawn S. An	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 December 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-20* is/are allowed.

6)☒ Claim(s) *21-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Remarks

1. Applicant's remarks filed on 12/07/06 have been fully considered but are not persuasive. The Applicant presents arguments of which previously cited prior art references do not teach or disclose:

A) measuring the decoder's processing capability, reducing processing based on a measure of computational processing required to decode at least one bitstream, and utilizing improper motivation using impermissible hindsight; and

B) reducing the number of coefficients based on measured computational processing and the measured processing capabilities, and recited "without receiving encoded throttling control data associated with the video data".

Applicant further argues that if the combination of references including Stifle et al do not contain sufficient disclosure to teach or suggest the subject matter of claims 21-25, then the same combination of references not including Stifle et al likewise cannot be sufficient to teach or suggest the subject matter of claims 21-25.

However, after careful scrutiny of cited prior art references with respect to all of Applicant's arguments, the Examiner disagrees, and maintains the grounds of rejection for reasons that follow.

In response to argument A), Liu et al discloses a method of controlling processing requirements of a video decoder that receives and decodes incoming video data, comprising:

measuring computational processing required to decode at least one bitstream of video data (col. 11, lines 43-56); and

measuring of the decoder's processing capability (Fig. 7, 370; col. 13, lines 38-41). The recited measuring of the decoder's processing capability are clearly met by optimizing for processing power process (370) evaluating and classifying which controls video processing pathway to determine the performance capability of the microprocessor.

Liu et al does not particularly disclose reducing processing based on the measured computational processing required to decode at least one bitstream.

However, Tucket et al teaches reducing (turning off motion compensation) computational processing performed on the decoded video data prior to displaying (125) a picture (Fig. 4A, 340; col. 10, lines 33-51) for avoiding decoder's computational burden (col. 3, lines 59-67; col. 4, lines 1-5).

Tucket et al further teaches a performance monitor (Fig. 3, 205) located in motion decoder for determining performance capability of the host processor and determining other grades of performance as well or a continuum of performance levels (col. 9, lines 27-39).

At this juncture, all of the claimed features have been met with the exception of the recited word "based". However, this claim rejection is based on a combination of references (Liu et al (5,680,482) in view of Tucker et al (5,903,313)).

Therefore, it would have been considered obvious to a person of ordinary skill in the relevant art employing Liu et al's reference to incorporate all of concepts as taught by Tucker et al so as to reduce processing performed on the decoded video data, *based* on Liu et al's measure of computational processing required to decode at least one bitstream, thereby avoiding decoder's computational burden, thereby preventing such as out of sync, freeze in the picture, discontinuities, and jerkiness effects in the picture.

Moreover, in response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to argument B), Liu et al discloses a method of reducing processing requirements of a video decoder that receives and decodes incoming video data, comprising:

measuring an amount of computational processing (col. 11, lines 43-56); and measuring processing capability (Fig. 7, 370; see further discussion above).

Furthermore, Boyce et al teaches a decoder comprising reducing the number of coefficients inverse quantized and inverse DCT transformed by selectively setting coefficients to alternate values comprising zero (Fig. 1, 126; col. 10, lines 13-24) in order to make the downstream processing of these coefficients less computationally intensive.

At this juncture, all of the claimed features have been met with the exception of the recited word "based". However, this claim rejection is based on a combination of references (Liu et al (5,680,482) in view of Boyce et al (5,635,985).

Therefore, it would have been considered obvious to a person of ordinary skill in the relevant art employing Liu et al's reference to incorporate Boyce et al's concepts as above so as to reduce a number of coefficients *based* on Liu et al's measured computational processing and the measured processing capabilities in order to make the downstream processing of these coefficients less computationally intensive, thereby efficiently decoding video bitstream.

Moreover, in response to Applicant's arguments, the recitation without receiving encoded throttling control data associated with the video data has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In response to Applicant's last argument, first of all, the Examiner would like to apologize for perhaps utilizing one reference at one Office action, then dropping the same references at the next or subsequent Office action.

However, after the extensive Pre-Brief Appeal conference and a further meeting, it has been clearly determined that Stifle et al's reference was not a good reference to use against some/all of the currently pending claims (hence, no longer applied). It has

been further determined that claims 1-13 would overcome the previous cited references, but claim 1-13 have been rejected in view of Double Patenting, irregardless. Finally, it has been determined that claims 21-25 could be rejected, after a further review, based on broadness of claims, thus have been rejected in view of previously cited references, and excluding some of the previous cited references such as Stifle et al and Tucker et al.

Therefore, if the combination of references including Stifle et al do not contain sufficient disclosure to teach or suggest the subject matter of claims 21-25, then the same combination of references not including Stifle et al can still be sufficient to teach or suggest the subject matter of claims 21-25 as long as the cited references disclose/teach/suggest all of the claimed features. Upon further review/scrutiny, it has been determined that previously cited references could still be utilized to fill what Stifle et al was lacking. In summary, just because a subsequent Office action comprises rejecting claims utilizing all of the previously cited references minus one reference, without claims being amended, does not necessarily mean the same combination of references not including one reference cannot be sufficient to teach or suggest the subject matter of claims just as long as the combination of references disclose/teach/suggest all of the claimed features.

Henceforth, claims 21-25 have been rejected at least based on previous cited combination of references for reasons as discussed above.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al (5,680,482) in view of Tucker et al (5,903,313) as previously discussed in the last Office action as filed on 9/7/06.

4. Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al, and Tucker et al, as applied to claim 21 above, and further in view of Malladi et al. (5,818,532) as previously discussed in the last Office action as filed on 9/7/06.

5. Claims 24-25 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al (5,680,482) in view of Boyce et al (5,635,985) as previously discussed in the last Office action as filed on 9/7/06.

Allowable Subject Matter

6. Claims 1-13 are allowed at least based on Applicant's filing of Terminal Disclaimer on 12/07/06.

7. Claims 14-20 are allowed as previously discussed the last Official action as filed on 3/15/06.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to *Shawn S. An* whose telephone number is 571-272-7324.

10. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SHAWN AN
PRIMARY EXAMINER

2/25/07